

**IN THE UNITED STATES DISTRICT COURT FOR THE  
WESTERN DISTRICT OF OKLAHOMA**

GLENN H. GORTON,	)	
	)	
Plaintiff,	)	
	)	
vs.	)	Case No. CIV-08-1342-F
	)	
DAVID C. MILLER, Warden,	)	
	)	
Defendant.	)	

**ORDER**

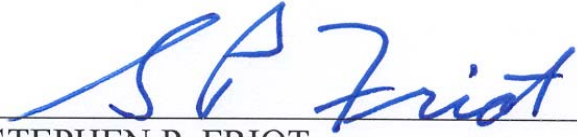
Plaintiff, a state prisoner appearing *pro se* whose pleadings are liberally construed, brings this action pursuant to 42 U.S.C. § 1983 alleging violations of his constitutional rights while incarcerated at the Lawton Correctional Facility. Plaintiff has not objected to the June 23, 2009 Report and Recommendation of Magistrate Judge Bana Roberts. (Report at doc. no. 11.) In that Report, Magistrate Judge Roberts recommends that the complaint be dismissed upon filing and that the dismissal count as one strike pursuant to 28 U.S.C. § 1915(g). The Report also advises plaintiff that failure to make timely objection to the Report waives the right to appellate review of both factual and legal questions. No objection to the Report has been filed and no request for an extension of time within to file such an objection has been sought.

Having conducted its own review, and with there being no objection, the court finds that it agrees with the Report. It further finds that no purpose would be served by stating any further analysis here.

Accordingly, the Report and Recommendation of Magistrate Judge Roberts is **ACCEPTED, ADOPTED** and **AFFIRMED** in its entirety. This action is **DISMISSED** upon filing for failure to state a claim for which relief can be granted.

28 U.S.C. §§ 1915(e)(2)(B)(ii), 1915A(b). This dismissal counts as a strike and counts as a prior occasion pursuant to 28 U.S.C. § 1915(g) after plaintiff has exhausted or waived his right to appeal.

Dated this 28<sup>th</sup> day of July, 2009.

  
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STEPHEN P. FRIOT  
UNITED STATES DISTRICT JUDGE

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